POWERS OF THE GOVERNMENT OF THE UNITED STATES—
FEDERAL, STATE, AND TERRITORIAL.



# SPEECH

OF

# HON. JAMES A. STEWART,

## OF MARYLAND,

ON

# AFRICAN SLAVERY,

ITS STATUS—NATURAL, MORAL, SOCIAL, LEGAL, AND, CONSTITUTIONAL;

AND

THE ORIGIN, PROGRESS, PRESENT CONDITION, AND FUTURE DESTINY OF THE UNITED STATES, CONSIDERED IN CONNECTION WITH AFRICAN SLAVERY AS A PART OF ITS SOCIAL SYSTEM; WITH THE BEARINGS OF THAT INSTITUTION UPON THE INTERESTS OF ALL SECTIONS OF THE UNION, AND UPON THE AFRICAN RACE.

DELIVERED IN THE HOUSE OF REPRESENTATIVES, JULY 23, 1856.

WASHINGTON:
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.
1856.

# THE SLAVERY QUESTION.

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The House being in the Committee of the Whole on the state of the Union—

Mr. STEWART said:

Mr. CHAIRMAN: So far as I have the opportunity, under the circumstances, I propose dispassionately to discuss some of the principles which lay at the foundation of our Government, more especially as they apply to the *status* of negro slavery as it existed at the time of the adoption of the Constitution, anterior and subsequent thereto; the establishment of territorial governments, and the formation of new States, as an additional and provisional element; with some general miscellaneous remarks, applicable to the disturbed state of our affairs, and going to show that negro slavery, as it has been employed here, has been beneficial to the country, and promotive of the happiness of the negro race. In the course of my argument, I shall undertake to demonstrate that the Federal Government, the State and Territorial governments, all being component parts and parcel, of one entirety, so far as social and municipal regulations are concerned, are *pro-slavery* by necessary consequence; that no rightful and constitutional power exists, under the system, to check or limit the natural internal increase of slavery, except through the State governments, either of their own volition, or by an amendment of the Federal Constitution, as therein provided for. The General Government is merely possessed of delegated authority, limited to the specific objects confided to its care. The residuum of power is retained by the States or the people thereof. The General Government certainly cannot impart an authority it does not itself possess. "*Potestas delegata non potest delegari.*"

This Government may consent, in the exercise of its express authority, that the territory intrusted to its management for a specific object, may be occupied. Municipal government may thus be organized by the people in the said territory, not in conflict with the Constitution, or the rights of the States, because the jurisdictional authority of the Federal Government cannot, *per alium* or *per se*, exceed constitutional limitation. When the General Government does consent, the original power in the people of the Territories develops itself, as a matter of necessary consequence, from the principle of inherent authority in the people, qualified by its own acquiescence, *in totidem verbis*, or from the very nature of the case, through constitutional limitations. This native power may be exercised, in a limited degree, by the consent of the parties interested: that is, the General Government, as the *fiduciary* of the people of the States on the one side, and the people of the Territory on the other, to be indicated by the compact or organic law establishing the territorial government. The said General Government has no rightful power to prescribe for them what sort of municipal regulations they shall adopt; but is bound to protect the citizens thereof in the possession and enjoyment of their property of every description, slaves and other chattels included; and cannot prohibit its introduction, or discriminate between different kinds of property. Negro slavery, with their other civil rights, is necessarily carried with them into the Territories by force of the compact of government between the States, because that government over the States, and the people thereof, is, in its protection of the rights of property and citizenship, a complete unit, and cannot make distinctions as to different species of property. If the people of the Territories should assume upon themselves to prohibit the introduction of the slavery institution before they had formed a State government, such a proceeding would be a violation of the constitutional rights of slaveholders. In such a case, any citizen that chose to contest it, could invoke the authority of the General Government to vindicate his rights; or he may, from deference to the matured sentiment of the people of the Territories, under a regularly organized territorial government, waive his rights, and from comity acquiesce in their determination.

Whilst the said people are in their territorial condition, or in the process of forming a State constitution, the Congress of the United States has no right to prescribe for them what sort of

domestic institutions they shall have, and cannot, therefore, rightfully intervene in directing their action upon such subjects. Such an interference would be a gross usurpation, and without a shadow of lawful authority.

The principles of the Kansas-Nebraska law rest upon and involve these considerations; and from its spirit and temper, in deferring the settlement of all these matters to the people of the Territories when they come to consider what sort of permanent government they will establish for themselves, commends itself to the support of the friends of popular free government, and should be *firmly* sustained. Our whole system of government, Federal, State, Territorial, and Municipal, is practical, utilitarian, and judicious—not utopian, transcendental, and abstract—essentially founded upon the habits, customs, local interests, and peculiar circumstances of the people as they existed at the time of its formation;—and, so far as its founders reasonably contemplated it would be operative upon their future progress and development:—the form of government was adopted to suit the interests of the people—not upon the principle that the people were to be put upon a Procrustean bed, then and thereafter, and stretched to suit an abstract and arbitrary theory. When once it was demanded to know of Solon, the great Athenian lawgiver, what sort of a constitution he had prepared for the Athenians, that wise, philosophical, and practical statesman said, "that he had furnished them with as good a constitution and form of government as the people would bear, looking to the habits, manners, and genius, that characterized them." Whilst some have said that that form of government is best which is best administered, the philosophy of ours esteems that best which is most adapted to protect and secure the happiness and actual interests of the people. The founders of our Government, in order to adjust the system they were devising to meet the local views of the people, reserved to the people of the States, through their State organizations, ample, and all the residuary mass of, power for this purpose;—delegating, at the same time, to the General Government, such other authority as was necessary to be exercised by the government of the whole, and to which the States, separately, were not as competent, and from the responsibility of which it was a wise policy they should be relieved. No serious difference of opinion upon such general matters as were to be confided to the Federal Government, could be seriously apprehended. Should any peculiar theories or notions exist in regard to mere local and municipal institutions, the States, immediately and directly interested, should settle it to suit their own views—thus disembarrassing the General Government by relieving it from the necessity of officious intermeddling in mere domestic quarrels and arrangements. This is a most beautiful and prominent feature, and necessarily one of the reserved rights, because it is essential for local purposes, and does not conflict at all with the more general considerations. The State, too, that has original and sovereign power, may again subdivide her authority, parcel it out to municipal corporations, counties, cities, towns, &c., for still more local purposes and objects. The principle of the Kansas-Nebraska act, in its formation and tendency, runs a parallel with this theory, as far as it can, as a system, be made applicable to a territorial government. Under our system, the *morale* of the slavery question is not an open one, because it is *res adjudicata*, and authoritatively settled by the founders of the Government in the establishment of the present Constitution. This judgment, thus solemnly pronounced, is obligatory upon every member of the compact; and all attempts to weaken or destroy its binding force, by abstract and crude discussions, are at war with the letter and spirit of the Constitution, and can only lead to disorder, to disunion, and to an overthrow of the Government.

These views I shall endeavor to argue and insist upon: if successfully maintained, the northern side of these questions will be proved to be rank heresy, and in utter conflict with the orderly arrangement of our Government, essentially and morally revolutionary, and treasonable in purpose and intent, if designed to change the action of the Government in its constitutional force and effect; the South will be vindicated as the true upholder of the pillars of the Constitution; and all good citizens, everywhere, who revere the Government as it is, under which they live and have prospered, should manfully come to the rescue.

What, then, is the character of the Government, so far as slavery is concerned, and what is its declarative authority and express recognition? Will it be seriously denied that it is protective and preservative of slavery, existing at the time of the adoption of the Constitution, and authorizing its further introduction, *ad libitum*, forever thereafter? Not a syllable against slavery in the States, or within the jurisdictional limits of the Union. No provision for its gradual extinction, but providing for its complete protection and increase. The ninth section of the first article contains an express prohibition upon Congress to enact any law, prior to the year 1808, to prevent the importation of slaves. Let me invite attention to its peculiar phraseology:

"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808."

After the year 1808 there is, by the aforegoing clause, no prohibition of slavery, and no obligation upon Congress to pass a prohibitory law. Congress can, at any time, repeal the prohibitory laws now upon the statute-book against the slave trade, and the States could then introduce additional slaves. The slave States, it is always maintained by our opponents, have controlled this Government, and they are universally charged with aggression, and a fixed design to extend slavery. Their refusal to admit more slaves from abroad may be relied upon as a full answer to such allegations.

In order that this right to introduce slaves should be placed beyond all contingencies, it is remarkable that in the fifth article, providing for amendments of the Constitution, the amendatory power is expressly denied so as to affect the first and fourth clauses of the ninth section of the first article. Could stronger language be employed, and was any right ever more expressly recognized and protected? The said fifth article declares that—

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this

Constitution; or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid, to all intents and purposes, as part of this Constitution, &c.; *Provided, That no amendment which may be made prior to the year* 1808, *shall, in any manner, affect the first and fourth clauses in the ninth section of the first article.*"

Thus it will be observed that an amendment of the Constitution would have to be resorted to now to prohibit the States from introducing slaves from abroad, if Congress would not legislate against it.

Here, then, is the strongest and most unqualified evidence of the recognition of slavery. The third clause of section two, article four, provides that—

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

This clause, to the extent to which it goes, protects slavery *in any State* against the *positive laws* or *regulations thereof*. If no State had such laws or regulations, and passed none, then the aforesaid clause of the Constitution was inoperative, practically, and slavery, as a legal species of property, could be carried there just as anything else in the shape of property. This right of the master results from his ownership and the right to the custody and services of the slave by the common law. It is the same right by which bail may arrest their principal in another State. The Constitution and laws of the United States *do not confer*, but secure, this right to reclaim fugitive slaves *against State legislation*. In Peters's Digest of the Reports of the Supreme Court of the United States, page 536, &c., it will be found that the said court has placed this matter beyond all cavil:

"A citizen of another State from which a slave absconds into the State of Pennsylvania, may pursue and take him without warrant, and use as much force as is necessary to carry him back to his residence. He may be arrested on Sunday—in the night—in the house of another, if no breach of the peace is committed. This right of the master results from his ownership, and the right to the custody and service of the slave by *the common law*.

"The Constitution and laws of the United States do not confer, but secure, this right to reclaim fugitive slaves against the laws of the State. It is no offense against the laws of the State for a master to take his absconding slave to the State from which he absconded. No person has a right to oppose the master in reclaiming his slave, or to demand proof of property. The master may use force in repelling such opposition."

The right of property in the owner of the slave in another State is placed high above all State regulations, and so unanswerably announced by our highest court in the land.

The Constitution also, in the third clause of the second section of the first article, in making provision for representation and taxation, expressly recognizes the existence of slaves as the most valuable of property in the adjustment of its representative and taxable basis.

The Supreme Court has on sundry occasions, clearly and firmly maintained and enforced this right. I will refer to a most grave and important case, which was brought before it, and which was imposing and serious in its bearings, more especially as it involved exciting questions of State sovereignty—Pennsylvania and Maryland, loyal and neighboring States, being immediately concerned.

This was the case of Prigg, a citizen of Maryland, against the Commonwealth of Pennsylvania. Justice Story, a most distinguished jurist, and of whom Massachusetts may well be proud, as one of her illustrious sons; with all the moral grandeur and firmness in keeping with such a cause, delivered the decision of this high court.

In the syllabus of the case the law is thus stated:

"It will probably be found, when we look to the character of the Constitution of the United States itself—the objects which it seeks to attain—the power which it employs—the duties which it enjoins, and the rights which it secures—as well as to the known historical facts that many of its provisions were matters of compromise, of opposing interests and opinions—that no uniform rule of interpretation can be applied, which may not allow, even if it does not positively demand, many modifications in its application to particular clauses. Perhaps the safest rule of interpretation, after all, will be found to be to look to the nature and object of the particular powers, duties, rights, with all the light and aid of contemporary history; and to give to the words of each just such operation and force, consistent with their legitimate meaning, as may fairly secure and attain the ends proposed. It is historically well known that the object of the clause in the Constitution, relating to persons owing service and labor in one State, escaping into another, was to secure to the citizens of the slaveholding States the *complete right and title* of ownership in their slaves, as *property, in every State* of the Union, into which they might escape from the State where they were held in servitude.

"The full recognition of this right and title was indispensable to the security of this species of property in all the slaveholding States; and, indeed, was so vital to the preservation of their domestic interests and institutions, that it cannot be doubted that it constituted a fundamental article, without the adoption of which the Union could not have been formed. Its true design was to guard against the doctrines and principles prevailing in the non slaveholding States, by preventing them from *intermeddling* with, or *obstructing*, or *abolishing*, the *rights* of the owners of slaves. The clause in the Constitution relating to fugitives from labor manifestly contemplates the existence of a positive, unqualified right, on the part of the owner of the slave, which no State law or regulation can in any way qualify, regulate, control, or restrain. Any State law or regulation which interrupts, limits, delays, or postpones the rights of the owner to the immediate command of his service or labor, operates, *pro tanto*, a discharge of the slave therefrom. The owner of a fugitive slave has the same right to seize and take him, in a State to which he has escaped, that he has in the State from which he fled. The court have not the slightest hesitation in holding that under and in virtue of the Constitution, the owner of the slave is clothed with the authority, in every State of the Union, to seize and recapture his slave.

"The right to seize and retake fugitive slaves, and the duty to deliver them up, in whatever State of the Union they may be found, is, under the Constitution, recognized as an absolute, positive right and duty, pervading the whole Union with an equal and supreme force, uncontrolled, and uncontrollable, by State sovereignty and State legislation. The right and duty are coextensive and uniform, in remedy and operation, throughout the whole Union. The owner has the same security, and the same remedial justice, and the same exemption from State regulations and control, through however many States he may pass with the fugitive slave in his possession, in *transitu* to his domicile."—16 *Peter's Reports*, p. 540; adjudged in 1842.

This clear and unqualified annunciation of the law, from the highest tribunal in the country, pronounced by the ablest judge that has ever ornamented the judicial history of the State of Massachusetts, is irresistibly conclusive. From its scope and tenor it may well be maintained, that, under the Constitution of the United States, negroes, free or slave, are no parties to the covenant; that "We, the people," in the preamble to the Constitution, does not include them; that the spurious, vicious, and revolting doctrine of the equality of the negro and the white man, in this country, at least, is a monstrous heresy; that

within our jurisdictional limits as a nation, negroes are to be presumed and considered slaves and property, and that under the operation of this clause in relation to fugitive slaves and their speedy recapture, under the lucid exposition of our highest court for its interpretation, the same presumption must be uniform and maintainable in a non-slaveholding as well as a slaveholding State, more especially if they have no local law declaring the *status* of the negro race. The Constitution of the United States has, beyond all question, recognized and effectively ordained and established slavery as to the negro race. Let us further ascertain what had been its previous history, and which the founders of our Government had necessarily before them, and whether they had created such a state of things; or if it had existed by the great law of nations, which is said to be but the application of the law of nature to the affairs of nations.

In 10 Wheaton's Reports of the Decisions of the Supreme Court of the United States, page 66, and decided as late as the year 1825, in the case of the Antelope, Chief Justice Marshall, than whom an abler, purer, or more enlightened judge never sat on any bench, pronounced the judgment of that court. He says:

"The question, whether the slave trade is prohibited by the law of nations, has been seriously propounded, and both the affirmative and negative of the proposition have been maintained with equal earnestness. But from the earliest times war has existed, and war confers rights in which all have acquiesced. Amongst the most enlightened nations of antiquity one of these was, that the victor might enslave the vanquished.

"That which was the usage of all could not be pronounced repugnant to the law of nations, which is certainly to be tried by the test of general usage. That which has received the assent of all must be the law of all. Throughout the whole extent of Africa, so far as we know its history, it is still the law of nations, that prisoners are slaves. A jurist could not say that a practice thus supported was illegal. In this commerce, thus sanctioned by universal assent, every nation has an equal right to engage. No principle of general law is more universally acknowledged, than the perfect equality of nations—Russia and Geneva have equal rights.

"It results from this equality, that no one can rightfully impose a rule on another. Each legislates for itself. A right, then, which is vested in all, by the consent of all, can be divested only by consent; and this trade, in which all have participated, must remain lawful to those who cannot be induced to relinquish it. As no nation can prescribe a rule for others, none can make a law of nations, (not even Massachusetts,) and this traffic remains lawful to those whose Governments have not forbidden it."

Need anything be more conclusive to us than this decision of our highest court? Our Government has not, in its organism, constitutionally placed any prohibition on the "slave trade," so called—simply left to the discretion of Congress if deemed by them inexpedient, thus making it, manifest, that our forefathers had none of those morbid sentiments upon this subject which now animate a portion of their descendants; or, if they held any such feelings, they did not suffer them to exist as stumbling-blocks to the formation of a Union of all the States.

All history bears testimony that the Portuguese commenced the African slave trade in the year 1443. They were followed by the Spaniards and by the Dutch. In the years 1585–'88, charters were granted by Queen Elizabeth, encouraging the slave trade. The African company was established in England in 1672; and in the year 1689 they entered into an agreement to supply the Spaniards with slaves. In the year 1620, slaves were first introduced into Virginia. Slavery originated, *ex jure gentium*, by reason of captivity.

Incidentally I will here put a case. Suppose a sensible philanthropist was called on to decide upon the morality of the following case: He is on the coast of Africa with competent means. He also witnessed one thousand captives taken in war in that barbarous and benighted country, and without any agency of his were about to meet the dread penalty, according to the laws of war, as there understood. He found that he could purchase their ransom for a small price, and save their lives, by having them transported to a cotton plantation in the south of this Union, where he knew they would be amply provided for, and their general condition improved. What would true Christianity, philanthropy, and the ordinary feelings of humanity, prompt him to do? Retain his money, and let them be slaughtered, or advance the price, and save the miserable wretches from certain destruction? Could he thus save them, and refused to do so, would he be justified *in foro conscientiæ*? Suppose he took also into consideration any incidental profits, arising from the arrangement, regarding at the same time the certain improvement in the comfort of the negroes, what school of ethics could pronounce him a barbarous Christian? Suppose after he got them settled, and in process of time their numbers became great, and their happiness and comfort increased *pari passu*, and their liberation would destroy the same, and their absolute emancipation would result in incalculable mischief and calamity to both races, white and black, ought he to adopt such a policy?

These are grave questions for the consideration of the benevolent and prudential. "All things are not expedient;" and I submit, if our northern professed philanthropists, who have means, if they really design to benefit the negro race, should not turn their attention to the condition of the Africans in their native land, where thousands upon thousands are in barbarism and idolatry, more particularly as the slave trade, from its abuses and malpractices, has been abolished? There is an extensive field, without a competitor, for the display of all their kind regards and acts of benevolence in behalf of the negro. The Ethiopian, who cannot change his skin, is utterly uncared for in that great field for benevolent enterprise. Possibly the ways of Providence, that are past finding out, may some day disclose that, by their introduction here, it may be one of those incidents (although greatly in advance of the consummation) by which their ultimate amelioration may be accomplished. It is but a matter of historic justice to give the Spanish Government the benefit of their justification for engaging in the African slave trade. I refer to the preamble to the decree of that Government at Madrid, in December, 1817:

"The introduction of negro slavery into America was one of the first measures which my predecessors dictated for the support and prosperity of those vast regions, [their newly discovered possessions in the West,] soon after their discovery. The impossibility of inducing the Indians to engage in different useful, though painful labors, arising from their complete ignorance of the conveniences of life, and the very small progress they had made in the arts of social existence, required that the working of the mines, and the

cultivation of the soil, should be committed to hands more robust and active than theirs. This measure, which did not create slavery, but only took advantage of that which existed through the barbarity of the Africans, by saving from death their prisoners, and alleviating their sad condition, far from being prejudicial to the negroes transported to America, conferred upon them, not only the incomparable blessing of being instructed in the knowledge of the true God, but likewise all the advantages which accompany civilization, without subjecting them, in their state of servitude, to a harder condition than that which they endured in freedom."

These are the *rationalia* of Spanish morality. But the Spaniards are not singular in refusing the claimed rights of humanity to Pagans. Their example has been improved upon, and, by its application to the Indian races, has been commended by our Puritan ancestry as worthy of everlasting imitation.

The Puritans of New England, under the influence of religious fanaticism, looked upon the Indians of that region as children of the devil, (or pretended so to think,) and therefore only fit for carnage or servitude; whilst they regarded themselves as the favored sons of Heaven, destined to inherit a promised land, as the Israelites did Canaan. Their whole reasoning is admirably expressed in three resolutions, said to have been adopted by a community in Massachusetts, previous to seizing on a fertile Indian territory:

1st. *Resolved*, That the earth is the Lord's, and the fullness thereof.

2d. *Resolved*, That the Lord hath given the inheritance thereof to his saints.

3d. *Resolved*, That *we are the saints*.

The South have never been accused of religious fanaticism, and they do not, therefore, place their defense of the institution of slavery upon any such high and saintly ground as that occupied by the Puritans of the East: they simply treat it as a matter of fact in the world's great routine, and award to it all the rights of enlightened and practical humanity. I submit to the candid inquirer after truth, which is the preferable Christianity—that urged by the Spaniard in his decree, or that affirmed, in genuine pharisaical style, in the Massachusetts resolutions of the Puritans? Well may a cool moralist remark, that there is no such thing as absolute perfection; it is all comparative: and that, if the great God himself is governed by his own laws, and may not transcend his own prescribed limits, feeble man certainly ought to possess but that qualified freedom best suited to his nature and adaptability; and that a good Providence wisely overrules the world. I have no doubt the same fanatics that passed the above resolutions in Massachusetts, if they found in practice that they could not be carried out, and they were not able to secure the rich inheritance, would, upon subsequent consideration, have adopted the sentiment referred to in an old, quaint doggerel, and have further resolved,

> "That this is a fine world to live in,
> To give, to lend, or to spend in,
> But to beg, or to borrow, or to get one's own,
> 'Tis the d—dest world that ever was known."

Besides our own Constitution, the decisions of our highest courts, and the law, and practice of nations, the British courts, from which we have derived much of our legal learning, have also sanctioned slavery as a legal institution. Their decisions are but similar exponents of the doctrine *in pari materia*. It is a matter of notorious history, that both in ancient and modern times, the condition of slavery and the commerce in slaves were sanctioned by the universal practice and law of nations. The first case relating to the African slave trade, is that of Butts and Penn, determined in the 29th Charles II., being an action of trover for negroes. The special verdict in this case found that they were regularly bought and sold in India. (2d Keeble., 785.) In a subsequent case, trover was brought for a negro in England. Holt, C. J., said, that trespass was the kind of action, but that trover would lie if the sale was in Virginia. (2d Salk., 244.) In 1689, all the judges of England, with the eminent men who then filled the offices of attorney and solicitor general, concurred in the opinion, that negroes were merchandise within the general terms of the navigation act. (2d Chamber's. Opinion of Eminent Lawyers, 263.) The celebrated case of Somerset, decided by Lord Mansfield, before our Revolution, whilst it determined that negroes could not be held as slaves in England by reason of what he considered the local law of that realm, recognized the absolute and rightful existence of slavery in the colonies and elsewhere when not prohibited by local law; and as to its non-existence in England, by reason of this local law, this decision of Lord Mansfield is a departure from the current of the English authorities, and has not been followed, but substantially overruled, as assuming to establish a new doctrine. The whole legal policy of Great Britain and also France is fully confirmatory of the legal existence of property in slaves.

Chief Justice Marshall, in the decision before referred to, comments upon the English cases—remarkable for the full illustration of this doctrine—the Amedie, the Fortuna, and the Diana. The last case, the Diana, was a Swedish vessel, captured, with a cargo of slaves, by a British cruiser, and condemned in the court of vice admiralty at Sierra Leone. This sentence was reversed on appeal; and Sir William Scott, in pronouncing the sentence of reversal, said:

"The condemnation also took place on a *principle* which this court cannot, in any manner, recognize, inasmuch as the sentence affirms that the slave trade, from motives of humanity, hath been abolished by most civilized nations, *and is not, at the present time, legally authorized by any.*'"

"*This appears to me to be an assertion by no means sustainable.*" The ship and cargo were restored on the principle that the trade was allowed by the laws of Sweden.

Chief Justice Marshall further remarks:

"The principle common to these cases is, that the legality of the capture of a vessel engaged in the slave trade depends upon the law of the country to which the vessel belongs. If that law gives its sanction to the trade, restitution will be decreed: if that law prohibits it, the vessel and cargo will be condemned as prize."

He further remarks, that this whole subject came on afterwards to be considered in the case of the Louis. (2d Dow's Reports, 238.)

The opinion of Sir William Scott in that case demonstrates the attention he had bestowed upon it, and settles the law in the British courts.

The Louis was a French vessel, captured on a slaving voyage, before she had purchased any slaves, brought into Sierra Leone, and condemned by the vice admiralty court at that place. On appeal to the court of admiralty in England,

the sentence was reversed. Sir William Scott said, "that this trade could not be pronounced contrary to the law of nations. A court, in the administration of law, cannot attribute criminality to an act when the law imputes none. It must look to the *legal standard of morality;* and, upon a question of this nature, that standard must be found in the law of nations, as fixed and evidenced by general, ancient, and admitted practice; by treaties, and by the general tenor of the laws and ordinances, and the formal transactions of civilized States. It is pressed as a difficulty, says the learned judge, what is to be done, if a French ship, laden with slaves, is brought in? I answer, without hesitation, restore the possession which has been unlawfully divested; rescind the illegal act done by your own subject." There is no fanaticism in this, but firm and unswerving adherence to the law, administered by a pure and upright and incorruptible judge.

In the case of Madrazo *vs.* Willes, (5 Serg. & Low., 313,) all the judges agreed, and so pronounced, that a foreigner who is not prohibited from carrying on the slave trade by the laws of his own country, may, in a British court of justice, recover damages sustained by him in respect of the wrongful seizure, by a British subject, of a cargo of slaves on board of a ship then employed by him in carrying on the African slave trade. In this case, the declaration stated that the plaintiff was a subject of Spain, and that, on the 12th of July, 1817, at Havana, he was lawfully possessed of a certain brig, and that the brig was lawfully cleared out for a certain voyage in the slave trade, to wit: from Havana to the coast of Africa, and back; and that, on the 16th of January, 1818, on the high seas, to wit: off the Cape of St. Paul's, on the coast of Africa, the defendant seized the brig, with her stores and three hundred slaves, &c., and kept and detained them for a long time, and converted the same to his own use; by means whereof the said brig was prevented from the further prosecution of the said voyage, and the plaintiff deprived of great gains which would have accrued from the slaves, &c. The defendant plead not guilty. At the trial at the London sittings, it appeared that the defendant was a captain in the Royal Navy, and had taken possession of the ship, which was engaged in the slave trade. It occurred to the Lord Chief Justice, at the trial, that the plaintiff was not entitled to recover the value of the slaves in an English court of justice, and accordingly he desired the jury to find their verdict separately for each part of the damage, giving to the defendant liberty to move to reduce the verdict in case the court should agree with him on the point.

The jury found a verdict for the plaintiff; damages £21,800—being for the deterioration of the ship's stores and goods, £3,000, and for the supposed profit of the cargo of slaves, £18,180. Jervis, for the defendant, moved for a rule *nisi* to reduce the damages to £3,000. By the 47th George III., chapter 46, the slave trade, and all dealings connected with it, were declared unlawful. It follows, therefore, as a consequence, that no one can be allowed to recover damages in respect of a cargo of slaves, &c. Abbott, C. J., said:

"On further consideration, it appears to me that there is no sufficient ground for reducing this verdict," &c.

Bayly, J., said:

"I do not think that there is sufficient doubt to induce us to grant a rule, &c. A British court of justice is always open to the subjects of all countries in amity with us, and they are entitled to compensation for any wrongful act done by a British subject to them," &c.

Holyrood, J., said:

"However much I may regret that any damages can be recoverable for such a subject as this, yet I think we are bound to say that this plaintiff is entitled to them."

Best, J., said:

"It is clear, from the authorities, that the slave trade is not condemned by the general law of nations."

Here, then, is the settled doctrine of the British courts, recognizing slavery on the ocean, with no special municipal law to protect it. What, then, becomes of that modern invention, which declares that slavery cannot have any extra territorial existence, beyond the real authority that creates it? If African slavery is then tolerated on the high seas, with how much more force under our Constitution, where it is a firmly-established and regulated institution?

In 11th Peters's Reports, 73, the Supreme Court of the United States have settled the law on the subject of slavery in another class of cases. Certain persons, being slaves in Louisiana, were by their owners taken to France as servants, and were afterwards sent back to New Orleans. The ships bringing them, were, after their arrival, libeled for alleged breaches of the act of Congress of 1818, prohibiting the importation of slaves into the United States. The court held that the act of Congress does not apply to such a case. The object of that law was to put an end to the slave trade. The language of the statute cannot properly be applied to persons of color who were domiciled in the United States, and who were brought back after temporary absence.

In the case of Mahoney *vs.* Ashton, 4 H. & McHenry's Maryland Reports, where a negro woman was carried by her owners as a slave from the Island of Barbadoes to England, and afterwards brought to Maryland, it was held, after full and elaborate argument, that however the laws of Great Britain operate upon persons there claimed as slaves, might interfere to prevent acts of ownership, yet upon bringing the slave into Maryland the relation of master and slave continued; that the condition of slaves does not depend exclusively either on the civil or the feudal law. Our act of Congress, regulating and protecting the conveying negro slaves coastwise, necessarily repudiates the idea of slavery being solely existent and valid in the place of its domicile. As property, like every other variety, it is subject to the general legislation of Congress, to guard, protect, and facilitate its safe and easy, removal from one place to another; and the Government of the United States is bound to protect it, unless it be taken to a foreign country for permanency, where its continuance is prohibited by the local law. The celebrated Vattel, a standard author upon the subject of general law, affirms this to be the fixed and established law of property, that it cannot be taken from the owner because he is in a foreign country with it. He lays down this law:

"That the property of an individual does not cease to belong to him on account of his being in a foreign country. It still continues a part of the aggregate wealth of his nation. Any power, therefore, which the lord of the ter-

his associates to do, that has not been done? Are they not obliged to administer the laws as they find them? Are they not obliged to expound the Kansas-Nebraska law as it stands, unrepealed, on the statute-book? Have these officials not sworn, before high Heaven and the face of all men, faithfully to discharge their duty? Would you have them falsify their solemn obligation when outrage stalks abroad in the noonday sun; and when firmness is required, would you have them swerve to lawless clamor? Will you have realized the motto, "*Inter arma leges silent?*" Or will you give them credit for fearless execution of the laws? I wonder if these Topeka constitution-makers took an oath to support your Constitution? Where are the men of Kansas that have sent on to us petitions for a redress of grievances, or even for the adoption of their handiwork, this Topeka constitution—conceived in iniquity, and with rebellion stamped upon its very brow?

For aught that appears, they are men in buckram—in Kansas to-day, gone to-morrow; and if you inaugurate their government, will not you have to issue a search warrant to find them or their famous bantling? Sir, if the occasion were not a most solemn one, this whole proceeding, known as the Topeka transaction, should be characterized as a complete farce, with scarcely enough of the *dramatis personæ* to furnish characters. After the *dénouement* is over, if the world is not upset by it, no doubt it would afford incidents for a most laughable comedy. The Topeka constitutional convention—the members thereof sitting in the open air on logs and stumps, without ceremony, some in revolutionary robes, some in utter *deshabillé*, debating the affairs of State, and settling the destinies of that infant sovereignty—may Heaven forever forefend us from such miserable trumpery and hoy-de-doy buffoonery! If the President or Chief Justice Lecompte has transcended the limits of his official duties, with criminal intent to oppress the most obscure citizen, why not boldly, and as true patriots, bring up your impeachments? Why snarl at them, when you have the right to make out your bills of indictment? I submit, if it is right, fair, or manly, to assault official authority, and attempt to bring it into disrepute, when you have ample remedy, by putting them on their trial, giving them the power of vindication; and this you decline?

I have said that I believe the President has fearlessly discharged his duty, and the country will so esteem it. I happen to know Judge Lecompte. He is, I doubt not, a fearless, firm, and impartial officer, and I am sure will discharge his high duties faithfully and promptly. I am satisfied, in his responsible station, he will meet all its requirements as the exigencies of the occasion may deserve. He is not the man to be badgered or browbeaten. He is a sound lawyer, and I take it, will so carry himself in his honorable position, as to defy any well-grounded charge of breach of duty. It is abominable to endeavor to tarnish his official standing by mere partisan allegation. I dare say similar testimonials may be borne as to all the territorial judges and officers. They have been nominated by the President, and have undergone the ordeal of the Senate, which is a sufficient guarantee to the country to meet any slurs that political malice may attempt to cast upon them. But, it is said that faith has been broken by the repeal of the Missouri compromise, in the passage of the Nebraska act. That so-called compromise was but a law on the statute-book, enacted by one Congress and repealable by another. You talk of compromises in a mere law, when you are disregarding a whole series of compromises in the original Constitution—the very compact of government. Where in the Missouri law is the covenant that it should not be repealable? The North has never regarded it since its passage, and before its repeal. When Florida was admitted, did not the North oppose her admission? This was long after the passage of the Missouri compromise. The same may be said as to the course of the North as to the admission of Arkansas. No, sir; it is useless to talk of compromises except they are in keeping with the Constitution, and observed by all parties. They are mere cobwebs.

It is said that upon one occasion in the career of Alexander, surnamed the Great, a Thessalian robber was brought before him upon a charge of plundering on the high seas; being asked by Alexander, by what authority he played the free-booter—his reply was, "by the same right that Alexander conquers worlds; but because you overrun whole countries, you are renowned as a great conqueror, but because I command a small shallop, I am called a robber." Alexander dazzled by his boldness—the Thessalian robber outlawed, because of the modesty of his exploits. These Topeka men, because, forsooth, they are constitution-makers, and proclamate themselves as high-souled patriots, are to bewilder by their audacity: when brought down to their proper level as puny violators of the peace of the community, they cease to command our admiration. I have not seen an authentic copy of Judge Lecompte's charge to the grand jury, and therefore cannot say whether he is right, as alleged, in charging them with "high treason;" but I should be inclined to think that their flimsy proceedings could hardly be dignified as treason, *actual* or *constructive*.

It may be that the grand jury—considering that they had confederated with this great emigrant aid society incorporated by the State of Massachusetts, and well supplied with Sharpe's rifles, and assumed dominion and conquest—thought they should be measured by their aspirations. I dare say they will feel more complimented by such a dignified allegation, than to have been simply accused as mere disturbers of the peace. If they should be spared from the clutches of Judge Lecompte, and live to help to make another constitution, they may well consider themselves lucky. It seems to have been settled in the days of our Revolution, that, although revolutions might be resorted to, they were not to be recommended for light causes, and only when all other means of redress had failed, and oppression became intolerable. As long as there was any other legal remedy at hand, it must be resorted to. But it seems we have improved upon that, and revolutions may be got up nowadays as occasion may require. "A tempest in a teapot." Where has there been intolerable oppression in Kansas, and where have all the remedies been resorted to?

Congress has not been petitioned for redress by these Topeka constitution and revolution mongers. The legality of the proceedings of the

Kansas Legislature may be tried before the courts. The much-abused Kansas-Nebraska act, in the twenty-seventh section, provides an appeal from the court in Kansas, from Judge Lecompte's, if you please, to the Supreme Court. You can test the frauds that you say have disturbed you, by bringing the whole subject before the Supreme Court of the United States. This you can do, even under the *habeas corpus* proceeding, recognized by the said section. If, then, there has been fraud, outrage, violence, and if the Legislature itself is unauthorized, and its whole proceedings void, why is not the legal and orderly method, and the only satisfactory one, except the ballot-box, resorted to, in place of revolution, anarchy, and bloodshed? By pursuing this mode, order and regularity in all our proceedings are observed. Because this has not been done, I am right in assuming that the founders of the Topeka constitution are clearly in the wrong, and upon their own heads, with their coadjutors, does all the responsibility rest. I commend them to the sage and comprehensive exposition of the distinguished gentleman from Indiana, [Mr. DUNN,] whose remarks on this branch of the subject are patriotic, high-toned, and impressive.

Sir, it is true that we are living in an age of the world far distant from that rendered illustrious by the gallant and daring deeds of a noble ancestry. The interval has been a progressive one, and knowledge has increased; but we are yet living under the same old Constitution, as it was handed to us by its founders, unchanged in any particular affecting its general structure, and, we trust, competent to any emergency. It is now in our keeping. The Government is not a self-moving machine; it must be regulated by the same high considerations, and administered with that mutual forbearance, which characterized its authors. There is nothing now seriously to disturb us, unless we mean to magnify difficulties.

The slavery question gave our forefathers some trouble in laying the foundations of the Government; but it was wisely adjusted in a spirit of mutual compromise and concession. If we meet our difficulties in the same high and patriotic temper, clouds will pass away, and the rainbow of peace will shine in our political firmament. The pulpit may be desecrated; the effusions of literature perverted; benevolence turned from its natural channel; the Bible ignored; its divinity trampled in the dust, as it was once before, when it was dragged through the streets of Paris tied to the tail of an ass; the age of reason—the higher law—being boldly and shamelessly proclaimed. These are startling developments, but they have their limits; and it is to be hoped that there is still sufficient common sense and common decency and rudimental patriotism left, to keep the country moving on in her high destiny. Mountebanks are necessary evils in every community, it would seem. In our Confederacy, the South may always be relied upon as a *conservative section*. All the wild and fanatical schemes that have their origin in the North find little favor in the southern region.

This may arise from the character of the southern people, or the *status* of their peculiar institutions. Fortunate it is, certainly, that our demon-stricken brethren of the East are saved from the results of their own folly by their best friends at the South. "The fools are not all dead yet;" and in a community like ours we are bound to have variety, disorder, buffoonery, humbug, and clap-trap. I believe it was said by Barnum that the American people might be easily humbugged. The remark is only partially true; some may be—all cannot be. Barnum did not much travel in the South.

Is it not strange, that in that land proverbial for its steady habits—in the frosty regions of the North—so much effervescence, fanaticism, and knight-errantry, in its thousand forms, should prevail, and in the South receive no support. Maine-lawism, Mesmerism, Spiritualism, Higher-lawism, &c., have flourished in the northern section, but have not extensively ravaged the south. On the slavery question the North, or rather the East, is absolutely mad, at least so far as madness is indicated by the chief actors. The South is more reasonable and practical. In the aggregate calculation, however, those who adopt the matter-of-fact philosophy of the South are in a large majority.

The South is a *unit* upon the slavery question; and in the North, public sentiment is nearly balanced; put the whole South and the large minority at the North and West together, and they compose a large majority. Therefore the anti-slavery propagandists are comparatively a small portion of the great community in this country. I hold, therefore, that they can never have a very commanding position. They may, temporarily, by fortuitous causes, obtain a partial ascendency; but their reign is necessarily short-lived. You may, in high party times, raise a heavy outcry upon an alleged violation of some compact; outrages in Kansas or elsewhere may be magnified; all the changes may be rung upon a common assault and battery, occurring at the seat of Government; and so long as human nature remains as it is, you may expect to hear of fights, breaches of the peace, felonies, rapine, murder, and death. These are incidents to all society, in its most approved forms. Man is a strange animal even in a state of grace. These things are to be lamented; but the benefits of Government are not to be discarded because of these occurrences. They have their day, but settle no great principle. The North is not exempt more than the South. The great object of the present outcry at the North seems to be directed towards the accomplishment of a perfect equality between the white and negro races; to put the negro on the platform of the white man, or rather to degrade the white man to the level of the negro. In endeavoring to push this theory, which can never be made to fit, they are guilty of a vast number of absurdities.

For instance, they once had an old law, I believe, in Massachusetts, forbidding the intermarriage of the white and negro races. This was the natural sentiment, propagated by commonsense puritanism. Their modern posterity have undertaken to improve upon this, and that old statute has been considered a relic of barbarism, and swept from the statute-book. Is this the improved Massachusetts refinement? Not at all. It grows out of their reckless haste, from partisan feeling, to show their moral *hardihood*, and should not be quoted, I apprehend, as in-

dicative of the sober sentiment of Massachusetts gallantry, or humanity, on this delicate subject. Such a proceeding is against nature, and the invincible and unmitigated instincts of man; and it requires some other exciting cause to bring up the moral feeling to recognize its possibility. And although they may get their courage to the sticking-point to place this law upon the statute-book, repealing the edict of common-sense, yet they have not yet the boldness to carry it into practice. Therefore it looks like hypocrisy. Their faith is without works, and, according to Scripture, is dead.

Fred Douglass has a fair chance to open his batteries upon them for this. I take it for granted Massachusetts, with all her follies and vagaries, can never be brought, practically, to recognize the equality of the races—to associate upon terms of perfect and equal cordiality with the negro, to marry and intermarry, visit and be visited by them, sit in the same jury-box, at the council board, and in all the various social circles. If that event should ever unfortunately happen to that people, Massachusetts refinement in learning, and in all the embellishments of civilized life, will have sunk into an unfathomable abyss of barbarism. In that condition she would be a stigma to the Union. God forbid that such blighting fanaticism should desolate her fair borders! In the State from which I have the honor to come, so long ago as the year 1715 provision was made to prevent the marriage of a negro, or mulatto, with any white person. That law still stands unrepealed, as evidence of the purity of our venerable ancestry. Massachusetts, in repealing hers, I submit, has furnished no evidence of superior wisdom, or more delicate taste. Again: *De gustibus non est disputandum.* The founders of our Government never for a moment entertained this new-fangled Massachusetts idea of *negro equality.* They were *white men*, and provided a government for *white men and their posterity.* The preamble recites, that "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, and promote the general welfare, and secure the blessings of liberty *to ourselves and our posterity*, do ordain and establish this Constitution for the United States of America." They were *white men*, acting under their forms of government and social institutions as then extant; Massachusetts and Maryland, and doubtless the other States, having the old laws to which I have referred already in force.

Think you that they had the least conception that they were providing and ordaining a government for *negro offspring* when they spoke of *their posterity?* If such an idea had been suggested, it would have been scouted as an insult. Now, forsooth, in this day of Massachusetts refinement, the discovery has been made, that the negro race is worthy to be taken into copartnership; and this great Government, with all its glorious destiny, cannot be carried on without their aid and assistance. Shades of Hancock, Gorham, King, and a host of other revolutionary worthies, frown upon such governmental profanity! And may Heaven, in its mercy, save us from such Godless, Christless, inhuman, and abominable fanaticism, now and in all time to come! Such heresies can never succeed, because they are against the instincts of human nature, and run counter to all the uncontrollable decrees of fate. The negro race, although human, in all probability, is inferior and subordinate to the white race. This is proved by the experience of all ages, and is one of those physical axioms that needs no demonstration. They were undoubtedly intended to do the drudgery of the white man, and such is the ordination of Providence. Whilst the white man, in the perfection of his nature, must take the proper care of all under him, and adopt them to such purposes as they are most fitted, we must use the world as we find it, and legislate practically upon such physical facts, phenomena, and existences, as we see around us. This is the part of wisdom and common sense. In a social system there are, and must be, various departments and institutions.

The white man, subject to the ordinations of God Almighty, the great lawgiver, is bound to provide for all minor and subordinate creation. The female was made for his help-mate, and must be placed in that condition best adapted to her nature and peculiarities. She is not competent to exercise the duties of manhood—cannot be distinguished in the forum, the council-chamber, or in the chase. Like the placid moon in the solar system, although in an inferior orbit, and reflecting light, soft and serene, she shines in her own proper sphere, and gently contributes luster to the great social system. Transform her, change her position, and she becomes a fiery comet, creating terror and consternation. God forbid that any modern reform should be permitted to degrade her, and assign her any other place, than a graceful and refined one! She may be permitted so far as propriety will allow, to exercise all those excusable—nay, commendable arts pertaining to refined petticoat government, and to that we will acknowledge our full allegiance. If she go beyond that, rebellion and revolution will be the direful result.

So with children, in their minority. They, like lesser stars, must be subordinate; and if they do not properly conduct themselves, the responsibility must be taken of following Solomon's precepts on this subject, which will, probably, be found to be a necessary discipline occasionally, through all time. I wonder if this old-fashioned, scriptural, and patriarchal dispensation, has been exploded by the modern refinements of Massachusetts spiritualism! Or will they continue it as a part of their social economy, suffering the rod to be used upon children when beneficial to them, but exempt the poor negro, who is always in a state of pupilage? You will also find in social life a large class of persons, adults of feeble intellect, *non compotes mentes*, incapable from mental imbecility of taking care of themselves. These must be provided for. Would Massachusetts philanthropy open the doors of all their lunatic asylums, and turn out upon the world the unfortunate madmen, because, forsooth, they are in fact deprived of their freedom? She may demand, who is authorized to pronounce them fools? That may be a gross assumption. A madman once confined in an asylum was asked by a strange visitor, why he was thus placed under duress. His *transcendental* reply was, that it arose from a difference of opinion—that all the world thought he was crazy, whilst, on the contrary, he took it

that all the world was crazy; but being in an awful minority himself, and the world having the greater power, they had, by force of mere brute numbers, placed him in that condition. How do you find the negro here and elsewhere, and what is the instinctive impression as to his proper destiny? Feeble in intellectual power, with great physical endurance, and, so far as we have all history to teach us lessons, utterly incapable of providing for himself. What is the duty enjoined as to him? Provide for him—make him comfortable according to his capacity. Let him be employed in useful work, contributing to his own improvement, and at the same time to all around him. Experience proves that, if you turn him out, he will soon destroy himself; and if those properly chargeable with his custody suffer him to become miserable and squalid, a fearful responsibility rests upon them. My own State, a long time ago, acting upon humane and rational views, provided by statute for the comfort and management of the negro, and its wise legislation still stands and operates. Her statute, passed in the year 1715, provides:

"That if any master or mistress of any servant whatsoever, shall deny, or not provide, sufficient meat, drink, lodging, or clothing—or shall unreasonably burden them beyond their strength with labor, or debar them of their necessary rest and sleep, or excessively beat and abuse them, or shall give them above ten lashes for any one offense, they shall be fined in the discretion of the court not exceeding one thousand pounds of tobacco; and for a third offense, the said servant shall be freed."

Such is the humanity of our system upon this subject. Parents too, in that State, are allowed to administer reasonable chastisement upon their children, not having abolished the old patriarchal custom. A few madmen are confined in proper asylums. The fairer and better portion of creation are allowed to stay at home and take charge of their household affairs, and are idolized and worshiped. They are not permitted to turn traveling politicians and political propagandists of any sort. We bow at their domestic shrine, and submit with due humility and gallantry to be governed by them within certain conventional but well-defined limitations. Under this antiquated system, it may be, we are comparatively happy and contented. All classes, male and female, parent and child, guardian and ward, master and apprentice, master and servant, are reasonably comfortable, and we are not, like Rasselas in the happy valley, discontented with our lot. If these old and established usages are suffered to remain to us, and we are not annoyed by officious intermeddlers, we stand up manfully for the compact of government—we hold to the bond of union, for we are a loyal people.

This may be our simplicity, but we go for the greatest good to the greatest number—for law, order, parental and diversified social government: opposed to ultraism; in favor of natural and sensible progressive improvement and amelioration in all things. We are not yet prepared to adopt all your extreme and unfledged theories—Maine-lawism, Mormonism, Spiritualism, Fourierism, Fanny Wrightism, Agrarianism, Fanaticism, and the thousand other nameless heresies and humbugs that political upstarts may press upon our attention. We are content, so long as we are able to follow the ten commandments; and our ministers of the various denominations (for we are not sectarians—Catholic and Protesant have an equality of privilege from time almost immemorial) confine themselves to their appropriate duties; and religion, pure and undefiled before God and man, is proclaimed; and we witness under its benign influence, thousands of good Christians of all classes on their road to Heaven—masters and servants, in the same category, each in his proper element. We are satisfied that such institutions and customs, with slavery in their midst, have done more, and are still doing more, to evangelize the benighted African, than the false philanthropy and all the missionary societies of the North, from the foundation of the world to the present time.

The North, it may be, being better adapted for other systems, has wisely transferred her slavery to her southern brethren, and by turning the products of slave labor to the best account in her manufacturing establishments, has grown great, powerful, and wealthy, whilst the South has its advantage in the agricultural and planting pursuits. Properly speaking, the slavery institution of the South is but that servitude under the great and necessary law of society, practically working up its materials to the best advantage, and essentially preservative of the best interests of all classes and races. Under the diversified social system, wisely adjusted at home, and under a great parental government, all sections have enjoyed unexampled prosperity, because each separate community has been allowed, in regulating its institutions, to adapt them to the climate and their natural capability. Under our laws as they now stand, no more slaves can be introduced from abroad. Whether this system of prohibition is judicious or otherwise, all agree to stand to that policy. In the Constitution, Congress was restricted in the passage of any law to prohibit their importation before the year 1808. To that extent, the framers of the Constitution invited and encouraged an increase of slaves. The power, however, was reserved to each State, as it might think fit, to prohibit their introduction. The State of Maryland had thought proper, by her act of 1783, before the adoption of the Constitution, to prohibit the further introduction.

This had also been the policy of the State of Virginia. After the adoption of the Constitution, Maryland, by her act of 1792, in a spirit of benevolence, provided that the refugees from the troubles in St. Domingo, who had come into the State with their slaves, should be entitled to hold them. The State, again, by the act of 1796, reaffirmed the act of 1783, thus maintaining the policy of non-importation, although fully entitled to import under the Constitution, which had been recently adopted in 1789. The views of Maryland, Virginia, and other southern States, upon this subject, could not be universally carried out, by reason of the privilege conceded to such as chose to avail themselves of it under the Constitution. This result was forced upon Maryland by the eastern States, in part. Those States, if no restriction on navigation acts was imposed upon them by the authorities, were very ready to indulge any who desired an increase in the number of their slaves; and by their aid and essential co-operation, the ninth section of the first article was adopted, expressly against the remonstrances of the State of Maryland. The celebrated Luther Martin, of that State, who was a member of the

general convention, with gigantic powers of intellect, (and no more accomplished jurist ever flourished in this or any other country,) in his explanations of the proceedings of the convention to his own State, upon this very subject, to be found in the first volume of Elliot's Debates, page 372, says:

"The design of this clause is to prevent the General Government from prohibiting the importation of slaves. This clause was the subject of a great diversity of opinion in the convention. A committee of one member from each State was chosen by ballot, to take this part of the system under their consideration. To this committee was also referred the following proposition: 'No navigation act shall be passed without the assent of two thirds of the members present in each House;' a proposition which the staple and commercial States were solicitous to retain, lest their commerce should be placed too much under the control of the eastern States, but which these last States were as anxious to reject. This committee, of which I had also the honor to be a member, met and took under consideration the subjects committed to them. I found the eastern States, notwithstanding *their aversion to slavery*, were very willing to indulge the southern States, at least with a temporary liberty to prosecute the slave trade, provided the southern States would in their turn gratify *them*, by laying no restriction on navigation acts; and, after a very little time, the committee, by a great majority, agreed on a report by which the General Government was to be prohibited from preventing the importation of slaves for a limited time, and the restrictive clause relative to the navigation act was to be omitted. You will perceive, sir, that the General Government is prohibited from interposing in the slave trade before the year 1808, but that there is no provision in the Constitution that it shall afterwards be prohibited, nor any security that such prohibition will ever take place."

This is made a matter of complaint to the people of Maryland, against the action of the eastern States, of which Massachusetts was then, as now, the head.

George Mason, also, one of the most eminent delegates to the constitutional convention, from the State of Virginia, made a strong appeal against the adoption of this clause. He said:

"This is a fatal section, which has created more dangers than any other. The first clause allows the importation of slaves for twenty years. Under the royal Government this evil was looked upon as a great oppression, and many attempts were made to prevent it, but the interest of the African merchants prevented its prohibition. No sooner did the Revolution take place than it was thought of. Its exclusion has been a principal object of this State, and most of the States of this Union; yet, by this Constitution, it is continued for twenty years."

And he further goes on to say: "That the fifth article, providing for amendments, expressly excepts this article." So that "they have done what they ought not to have done, and left undone what they ought to have done.—(3 Elliot, 452-'3.) And amongst the objections he assigned for not signing the Constitution, was, that the general Legislature is restrained from prohibiting the importation of slaves for twenty years.—(Elliot, vol. 1., 496.)

Here were objections urged and relied upon, by these learned, patriotic, and distinguished men from Virginia and Maryland; but it availed not against the interests and inclinations of the men of the East, by whose votes the section was carried. In the proceedings in the East, preparatory to the final assent to the Constitution, or to its rejection, many alterations and amendments were suggested. I have not been able to discover that any formal and distinct objection was ever made to this clause, in the way of amendment. The whole people at home fully indorsed the action of their delegates. The State of Massachusetts, in particular, made very grave objections at that time, to the adoption of the Federal Constitution, but they were on other grounds, as her debates will show. The noble patriotism of her illustrious sons of that day was enabled to surmount all these objections; and by a close vote, the Constitution was at last adopted.

Before putting the vote, the immortal John Hancock, amongst other noble sentiments, thus eloquently remarked:

"That a general system of government is indispensably necessary to save our country from ruin, is agreed upon all sides; that the one now to be decided upon has its defects, all agree; but when we consider the variety of interests, and the different habits of the men it is intended for, it would be very singular to have an entire union of sentiment respecting it. The question now before you is such as no nation on earth, without the limits of America, has ever had the privilege of deciding upon."

These are considerations which I beg to commend, in all their comprehensive force and bearing, to his descendants. He then put the question, whether the convention will accept the report of the committee, as follows:

"The convention having impartially discussed and fully considered the Constitution of the United States of America, reported to Congress by the convention of delegates from the United States of America, and submitted to us by a resolution of the general court of the said commonwealth, and acknowledging with grateful hearts the goodness of the Supreme Ruler of the Universe, in affording the people of the United States, in the course of his providence, an opportunity, deliberately and peaceably, without fraud or suspicion, of entering into an explicit and solemn compact with each other, by assenting to and ratifying a new Constitution, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and their posterity—do, in the name and behalf of the people of the commonwealth of Massachusetts, assent to and ratify the said Constitution for the United States of America."

Then follow recommendations of certain alterations and provisions, as proposed amendments, in none of which is any reference made to this ninth section. The vote in the Massachusetts Convention was—yeas one hundred and eighty-seven, nays one hundred and sixty-eight: of her thirteen counties eight were for it and five against it. In Suffolk county the vote was—yeas thirty-four, nays five; Essex, yeas thirty-eight, nays six; Middlesex, yeas seventeen, nays twenty-five; Hampshire, yeas thirty-three, nays nineteen; Plymouth, yeas twenty-two, nays six; Barnstable, yeas seven, nays two; Bristol, yeas ten, nays twelve; York, yeas six, nays eleven; Duke, yeas two; Worcester, yeas eight, nays forty-three; Cumberland, yeas ten, nays three; Lincoln, yeas nine, nays seven; Berkshire, yeas six, nays sixteen. On the motion for ratification being carried and declared in the affirmative, observe how nobly the sons of Massachusetts of that day acquiesced in the settlement. Mr. White arose and said:

"Notwithstanding he had opposed the adoption of the Constitution, upon the idea that it would endanger the liberties of the country, yet, as a majority had seen fit to adopt it, he should use his utmost exertions to induce his constituents to live in peace under, and cheerfully submit to it."

Mr. Widgery said:

"He should return to his constituents, and inform them that he had opposed the adoption of the Constitution, but that he had been overruled, and that it had been carried by a majority of wise and understanding men."

Mr. Whiting said:

"That, although he had been opposed to the Constitution, he should support it as much as if he had voted for it."

Mr. Cooly said:

"He endeavored to govern himself by the principles of reason; and that, as the Constitution had been agreed to by a majority, he should endeavor to convince his constituents of the propriety of its adoption."

Dr. Taylor also said:

"He had uniformly opposed the Constitution; that he found himself fairly beaten, and expressed his determination to go home, and endeavor to infuse a spirit of harmony and love amongst the people."

Other gentlemen who had opposed it took similar patriotic ground. In all these proceedings and high-toned announciations of broad patriotism, no war was declared against this ninth section, or any other clause of the Constitution, bearing upon the subject of slavery. This, they knew, was a delicate subject, and not to be trifled with, and, like many others, was to be adjusted upon principles of forbearance. They also were well aware upon what terms it had been settled; and they certainly knew, that upon no earthly ground could they justly accuse their southern brethren for any possible augmentation of the slave interest, when they were aiding and assisting, through desire to promote their own interests, in its introduction and perpetuation. If the same sentiments animated the men of Massachusetts of the present day, would they enact personal liberty bills? Would they oppose the fugitive slave law? Would they charter emigrant aid societies to carry war, bloodshed, anarchy, and revolution into a virgin Territory? Would they nullify a Constitution which their forefathers so nobly agreed to stand by? Let them be admonished that the great charter of our liberties can only be preserved and perpetuated under the same high and elevated principles of concession and forbearance.

The very same Government, and no other, founded and established by the men of the Revolution, North, South, East, and what there then was of the West, still demands our all glance. Such as it is, through weal or woe, (and it has been all weal, and but little woe,) it should command our best affections. He who is not willing to abide by its provisions, and maintain all its guarantees, in good faith, and cultivate an abiding sentiment of loyalty for its majestic proportions, has already committed moral treason. Under its comprehensive clauses, if slavery, as then and now recognized, is part and parcel of it, and of its very essence, still it must be executed in good faith, promptly and unreservedly. So far as negro slavery is referred to and defined by it, the African race within its limits, and throughout its length, breadth, and expansibility, are forever deprived of *political* rights. They were not parties to it. It was not founded and established to give them any civil franchises. It was created by white men, and for white men, and the posterity of white men. No negro blood—no negro taint affects its vitalizing elements—no amalgamation, nor equality of the white and black races, for a moment sanctioned or upheld it. It is composed of delegated powers, to be used by white men: and such power as was not transferred, is retained by the States, or the people—the white people.

The immortal Father of his Country, and who was president of the constitutional convention, in communicating to Congress the Constitution which had been adopted, in language breathing the same spirit which animated John Hancock, to which I have adverted, said:

"It is obviously impracticable, in the Federal government of these States, to secure all rights of independent sovereignty to each, and yet provide for the safety and interests of all. Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance as on the object to be obtained. It is, at all times, difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved; and on the present occasion this difficulty was increased by a difference, amongst the several States, as to their situation, extent, habits, and particular interests; and thus the Constitution, which we now present, is the result of a spirit of amity and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable."—1 *Elliot*, 17.

This great compact—our Federal Magna Charta—is the towering fortress of our national strength. It is the organ of our foreign intercourse, and between the States. As to the first, its powers are ample and undisputed; but in its application to domestic questions and interests controversies may arise. In their determination the Constitution must be the text-book. The people of the States, in constituting the General Government, gave her ample federative powers, merely for the joint purposes of Union—reserving all the rest. No authority is then to be exercised unless specifically granted, or arising by necessary implication. The employment of doubtful power is necessarily excluded. The people of the several States are co-equal sovereignties. New States, as they may come into line, must stand upon the same basis. No power is given to restrict one more than another. None can be restrained, except in those matters expressly provided for, and equally applicable to all. It cannot fail to have been observed how cautious the founders were, not only to discriminate between powers delegated or prohibited to the States and those reserved, but also as to the enumeration of rights; therefore two distinct articles, in the way of amendment, were inserted, to wit:

"ART. 9. The enumeration in the Constitution of *certain rights* shall not be construed to deny or disparage *others* retained by the people.

"ART. 10. The *powers* not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States *respectively*, or to the people."

Both of these articles afford the most conclusive evidence of the design of the Constitution to restrict the General Government, and to prevent an encroachment upon the *rights* and *powers* of the respective States, or the people.

Where now do you find the men, in these troublous times, to maintain and stand by the doctrines of the fathers, and to uphold the Constitution, and the settled, fixed, and vested rights of all interests, and all sections, North, South, East, or West? In reviewing calmly, but firmly and dispassionately, the diversified organizations that contend for ascendency, where is the constitutional and conservative party? Can but one answer be given fairly to this inquiry? It is the great Democratic organization, which stands upon the same platform throughout the broad expanse of this country. Amid the frosty regions of the North, through the various climatic degrees of parallel, to the sunny South—from the stormy Atlantic to the golden shores of the Pacific—on mountain top, and in the deep recesses of the

valley—in town and country—in the magnificent domicil of the opulent, or in the hamlet of the poor—in the council chamber, or the workshop—over land and sea—amongst all classes and climes, and through all weathers, storm and sunshine, the pulsations of the Democratic heart beat in perfect unison. Its votaries everywhere nobly keep step to the music of the Union, stand up for the Constitution, for law, well-regulated liberty, and the defined rights of man, although opposed by diversified forms of every shade, grade, and hue, with doubtful characteristics, and of questionable shapes.

Foremost amongst its adversaries we see a motley assortment of the most discordant elements, bearing aloft on their standard the black flag of anarchy and disunion, fanaticism, agrarianism, higher-lawism, and other abominable monstrosities, that no sensible man can define. The great Democratic legions, a most noble host, with the glorious flag of the Union, the stars and the stripes, floating to the four winds—an invincible army with banners—will rout the conglomerated, heterogeneous, and discordant hosts of all opposition. How are the forces marshaled? Let us begin at the *minimum* and end at the *maximum*. Here comes, first, Gerrit Smith, (Smith is his true name, I believe, and he is not a shifty member of the universal Smith family, probably:) from the Empire State, a radical, pure, and unadulterated Abolitionist. His followers and admirers make no bones in declaring their creed to be the universal abolition of negro slavery everywhere, maintaining their right to do so in perfect accord with the doctrines of the Constitution, and law and order. This, to say the least of it, is bold and manly; but I suppose such a concern can never rise high in the scale of parties. Their dogmas are too essentially absurd and preposterous ever to command much position.

Next in order, we have a rear-admiral, a hero of the sea, going strong upon the restoration of the Missouri compromise, and threatening and breathing war and vengeance if his notions do not prevail. Being rather too much of a Hotspur, with but one State, and that only in part, to back him, I think it likely his old fogyism upon the subject of the Missouri compromise, nor his uncommon vehemence, will aid him in getting strongly on the track. He will probably break down in the training, and we shall not be long troubled with him.

Then comes the redoubtable Colonel Frémont, a squatter hero and mountain adventurer—an inexperienced statesman—a mere political bantling, only remarkable for his dashing eccentricities, well adapted for romantic exploits in *terra incognita*, threading mountain passes and deep gorges; having indomitable energy and hearty good will, he can live as long on air as any other man, and therefore the breeze that now has struck him no doubt is quite an agreeable incident in his destiny. Without experience as a statesman, with no administrative talents to recommend him, he may well be brought forward as the champion of the Black Republicans. Backed by all their strength, with such additional force as may be picked up by bolting and selfish Know Nothingism, in its nightfall of power and decay, he goes it strong on the single idea of "*no more slave States*." With the wild materials that compose his army it will probably be a close race between him and ex-President Fillmore, who comes up as the fourth candidate in order.

Fillmore has had the advantage of having seen some service at home, and has probably improved himself by travels abroad—has seen what is to be seen in western Europe—made a pilgrimage to Rome, that classic land—mingled with the Pope, as well as other dignitaries, and has an *air of nationality* about him. He is generally backed by the orthodox (so-called) Americans, has accepted their nomination, and his special friends are making great efforts to bring into their disastrous embrace the remnant of old conservative Henry Clay Whigs, whose chivalric party they have, however, formally denounced. With all these fortuitous atoms thrown into combination, still their only hope is to be able to throw the election of President into Congress. From such a Congress, as an electoral college, may Heaven forever defend us! This I take it, is the height of their ambition. If they can get it there, they seem to be willing to trust to sheer luck. The late election of Speaker, after an unprecedented struggle, may well show where the luck will terminate. His supporters will be disappointed even in this calculation.

Fifthly, and the *maximum*, steps upon the noble platform of the great conservative and constitutional party, Pennsylvania's favorite son—James Buchanan—every inch a man, with genuine nationality and whole-souled conservatism in every movement. Not put up before—now the very spirit for the times, as if providentially reserved for this critical occasion: a link between the revolutionary age and the present times: a cotemporary of Jackson and of Polk; cautious, conservative, firm, and manly: sternly imbued in his whole temperament with the spirit of the Constitution and the Union, with large experience in all national affairs, purified by long and illustrious service in all the prominent posts of the Government, State and national, at home and in her embassies abroad; with world-wide renown as a patriot, statesman, and honest man—he comes breathing the pure atmosphere of the Keystone State—a most worthy and just compliment to that patriotic Commonwealth, rich in internal resource, moral power, and Democratic grandeur. He has always borne himself in his high estate as a true man. No charge can justly be made against his rigid virtues, public or private. His friends may well bid defiance to all assaults. The very personified embodiment of manly Democracy, and worthy representative of its unspotted patriotism—the sage of Wheatland: the youthful soldier, who marched, in the adolescence of his career, to the assistance of a neighboring city, whose monumental towers were threatened by a foreign foe—the profound civilian. From his unexceptionable temperament, can any one who knows him fail to be inspired with the kindest regard and the most profound admiration for him? Unambitious, unobtrusive, with all the characteristics of a philosophical statesman—telegraphed, it is reported, during one of our recent hot days, as quietly reposing under the green shade of one of his time-honored trees, with coat off, in *deshabillé*, leisurely and cozily enjoying the fumes of the tranquilizing weed.

Under the lead and counsels of such a staid

patriot and conservative statesman, all sections may well feel safe. The whole country will look upon his success as the harbinger of peace, order, and good government—the full and vigorous execution of all the duties of the presidential station upon the most elevated national grounds, knowing no North, South, East, or West, with the same great flag of union waving equally and securely over all.

Pennsylvania may well be proud of her son and her position, under such circumstances, and can congratulate herself, indeed, as furnishing the key-stone of our most noble arch.

Amid storm and tempest, when rockets flew fast, Maryland's immortal bard, from the war-ship of the enemy, where he was obliged to loiter, penned that imperishable effusion, "The Star-spangled Banner." As he looked from his gloomy quarters surrounded by the enemy, with despondency shaking its cold glances around and about him, he saw the American flag as it floated still high in the breeze, and with the undying impulse of a patriot's heart inspiring his soul, exclaimed:

"The star-spangled banner! oh, long may it wave
O'er the land of the free and the home of the brave!"

So may we, in this time of dread and consternation, when the enemies of the Constitution and the Union have well nigh taken one half of the Capitol, feel cheering gratulation that our full flag still floats over us, undimed and unobscured; that our platform is the Constitution, securing to all well-regulated liberty; that our standard-bearers, before high heaven and all earth, hold up that national ensign, the "star-spangled banner," with all the stars and stripes emblazoned upon its ample folds. So long as that waves over sea and land, the rights of all, law, order, and the Constitution, must prevail.

Upon such a platform, under such a banner, and with such a standard-bearer, our noble and gallant army—the Democratic rank and file—aided and assisted, too, by all the conservative men in the country, will rout the combined forces of the Opposition. The watchman and patriot, as he observes the passing movements, and notes the signs in the political sky, will announce that "all is well." God grant that we may be saved from anarchy and ruin, and that this prophecy may be realized!